

Senate File 2363

H-8384

1 Amend Senate File 2363, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 14, after line 28 by inserting:

4 <DIVISION
5 MEDICAL CANNABIDIOL

6 Sec. _____. Section 124.401, subsection 5, Code 2014,
7 is amended by adding the following new unnumbered
8 paragraph after unnumbered paragraph 2:

9 NEW UNNUMBERED PARAGRAPH. A person may knowingly
10 or intentionally recommend, possess, use, dispense,
11 deliver, transport, or administer cannabidiol if the
12 recommendation, possession, use, dispensing, delivery,
13 transporting, or administering is in accordance with
14 the provisions of chapter 124D. For purposes of this
15 paragraph, "cannabidiol" means the same as defined in
16 section 124D.2.

17 Sec. _____. NEW SECTION. 124D.1 Short title.

18 This chapter shall be known and may be cited as the
19 "Medical Cannabidiol Act".

20 Sec. _____. NEW SECTION. 124D.2 Definitions.

21 As used in this chapter:

22 1. "Cannabidiol" means a nonpsychoactive
23 cannabinoid found in the plant *Cannabis sativa* L.
24 or *Cannabis indica* or any other preparation thereof
25 that is essentially free from plant material, and has
26 a tetrahydrocannabinol level of no more than three
27 percent.

28 2. "Department" means the department of public
29 health.

30 3. "Intractable epilepsy" means an epileptic seizure
31 disorder for which standard medical treatment does
32 not prevent or significantly ameliorate recurring,
33 uncontrolled seizures or for which standard medical
34 treatment results in harmful side effects.

35 4. "Neurologist" means an allopathic or osteopathic
36 physician board-certified in neurology in good standing
37 and licensed under chapter 148 or an allopathic or
38 osteopathic physician board-certified in neurology in
39 good standing and licensed in any other state.

40 5. a. "Primary caregiver" means a person, at least
41 eighteen years of age, who has been designated by a
42 patient's neurologist or a person having custody of a
43 patient, as being necessary to take responsibility for
44 managing the well-being of the patient with respect
45 to the medical use of cannabidiol pursuant to the
46 provisions of this chapter. A patient may have one or
47 more designated primary caregivers.

48 b. "Primary caregiver" includes but is not limited
49 to the following:

50 (1) An employee of a hospice program, if the

1 employee meets the definition of a primary caregiver
2 under paragraph "a".

3 (2) An individual providing home and
4 community-based services, and including a home health
5 agency, licensed, certified, or otherwise authorized
6 or permitted by the law of this state or another state
7 to administer health care in the ordinary course of
8 business or in the practice of a profession, if the
9 individual meets the definition of a primary caregiver
10 under paragraph "a".

11 Sec. ____ . NEW SECTION. 124D.3 Neurologist
12 recommendation — medical use of cannabidiol.

13 A neurologist who has examined and treated a patient
14 suffering from intractable epilepsy may provide but
15 has no duty to provide a written recommendation for
16 the patient's medical use of cannabidiol to treat or
17 alleviate symptoms of intractable epilepsy if no other
18 satisfactory alternative treatment options exist for
19 the patient and all of the following conditions apply:

20 1. The patient is a permanent resident of this
21 state.

22 2. The neurologist or another neurologist has
23 treated the patient for intractable epilepsy for at
24 least six months.

25 3. The neurologist has tried alternative treatment
26 options that have not alleviated the patient's
27 symptoms.

28 4. The neurologist determines the risks of
29 recommending the medical use of cannabidiol are
30 reasonable in light of the potential benefit for the
31 patient.

32 5. The neurologist maintains a patient treatment
33 plan.

34 Sec. ____ . NEW SECTION. 124D.4 Cannabidiol
35 registration card.

36 1. *Issuance to patient.* The department may approve
37 the issuance of a cannabidiol registration card by the
38 department of transportation to a patient who:

39 a. Is at least eighteen years of age.

40 b. Is a permanent resident of this state.

41 c. Provides the department with a written
42 recommendation signed by a neurologist that the
43 patient may benefit from the medical use of cannabidiol
44 pursuant to section 124D.3.

45 d. Submits an application to the department, on a
46 form created by the department, in consultation with
47 the department of transportation, that contains all of
48 the following:

49 (1) The patient's full name, Iowa residence
50 address, date of birth, and telephone number.

1 (2) A copy of the patient's valid photo
2 identification.
3 (3) Full name, address, and telephone number of the
4 patient's neurologist.
5 (4) Full name, residence address, date of birth,
6 and telephone number of each primary caregiver of the
7 patient, if any.
8 (5) Any other information required by rule.
9 2. *Patient card contents.* A cannabidiol
10 registration card issued to a patient by the department
11 of transportation pursuant to subsection 1 shall
12 contain, at a minimum, all of the following:
13 a. The patient's full name, Iowa residence address,
14 and date of birth.
15 b. The patient's photo.
16 c. The date of issuance and expiration date of the
17 registration card.
18 d. Any other information required by rule.
19 3. *Issuance to primary caregiver.* For a patient in
20 a primary caregiver's care, the department may approve
21 the issuance of a cannabidiol registration card by the
22 department of transportation to the primary caregiver
23 who:
24 a. Is at least eighteen years of age.
25 b. Provides the department with a written
26 recommendation signed by a neurologist that a patient
27 in the primary caregiver's care may benefit from the
28 medical use of cannabidiol pursuant to section 124D.3.
29 c. Submits an application to the department, on a
30 form created by the department, in consultation with
31 the department of transportation, that contains all of
32 the following:
33 (1) The primary caregiver's full name, residence
34 address, date of birth, and telephone number.
35 (2) The patient's full name.
36 (3) A copy of the primary caregiver's valid photo
37 identification.
38 (4) Full name, address, and telephone number of the
39 patient's neurologist.
40 (5) Any other information required by rule.
41 4. *Primary caregiver card contents.* A cannabidiol
42 registration card issued by the department of
43 transportation to a primary caregiver pursuant to
44 subsection 3 shall contain, at a minimum, all of the
45 following:
46 a. The primary caregiver's full name, residence
47 address, and date of birth.
48 b. The primary caregiver's photo.
49 c. The date of issuance and expiration date of the
50 registration card.

1 d. The full name of each patient in the primary
2 caregiver's care.
3 e. Any other information required by rule.
4 5. *Expiration date of card.* A cannabidiol
5 registration card issued pursuant to this section shall
6 expire one year after the date of issuance and may be
7 renewed.

8 6. *Card issuance — department of transportation.*
9 The department may enter into a chapter 28E agreement
10 with the department of transportation to facilitate the
11 issuance of a cannabidiol registration card pursuant to
12 subsections 1 and 3.

13 Sec. ____ . NEW SECTION. 124D.5 Department duties
14 — rules.

15 1. a. The department shall maintain a confidential
16 file of the names of each patient to or for whom the
17 department issues a cannabidiol registration card
18 and the name of each primary caregiver to whom the
19 department issues a cannabidiol registration card under
20 section 124D.4.

21 b. Individual names contained in the file shall be
22 confidential and shall not be subject to disclosure,
23 except as provided in subparagraph (1).

24 (1) Information in the confidential file maintained
25 pursuant to paragraph "a" may be released to the
26 following persons under the following circumstances:

27 (a) To authorized employees or agents of the
28 department and the department of transportation as
29 necessary to perform the duties of the department and
30 the department of transportation pursuant to this
31 chapter.

32 (b) To authorized employees of state or local
33 law enforcement agencies, but only for the purpose of
34 verifying that a person is lawfully in possession of a
35 cannabidiol registration card issued pursuant to this
36 chapter.

37 (2) Release of information pursuant to subparagraph
38 (1) shall be consistent with the federal Health
39 Insurance Portability and Accountability Act of 1996,
40 Pub. L. No. 104-191.

41 2. a. The department, in consultation with
42 the department of transportation, shall adopt
43 administrative rules under section 17A.4, subsection
44 3, and section 17A.5, subsection 2, paragraph "b",
45 to implement the provisions of this chapter, subject
46 to the prior approval of the administrative rules
47 coordinator and the administrative rules review
48 committee. Such rules shall become effective July
49 1, 2014, unless the effective date is delayed by the
50 administrative rules review committee and shall expire

1 one hundred eighty days after the effective date.

2 *b.* The rules adopted pursuant to this subsection
3 shall include but not be limited to rules to establish
4 all of the following:

5 (1) Rules to establish the manner in which the
6 department shall consider applications for new and
7 renewal cannabidiol registration cards.

8 (2) Rules to establish the manner in which
9 an out-of-state patient who possesses a written
10 recommendation of a treating neurologist that
11 specifically allows the patient to possess or
12 use cannabidiol to treat or alleviate symptoms of
13 intractable epilepsy in the jurisdiction of issuance
14 shall apply for and may be issued a temporary
15 cannabidiol registration card.

16 Sec. ____ . NEW SECTION. 124D.6 **Medical use of**
17 **cannabidiol — affirmative defense.**

18 1. *a.* A recommendation for the possession or use
19 of cannabidiol as authorized by this chapter shall be
20 provided exclusively by a neurologist for a patient who
21 has been diagnosed with intractable epilepsy.

22 *b.* Cannabidiol provided exclusively pursuant to the
23 recommendation of a neurologist shall be obtained from
24 an out-of-state source and shall only be recommended
25 for oral or transdermal administration.

26 *c.* A neurologist shall be the sole authorized
27 recommender as part of the treatment plan by the
28 neurologist of a patient diagnosed with intractable
29 epilepsy. A neurologist shall have the sole authority
30 to recommend the use or amount of cannabidiol, if any,
31 in the treatment plan of a patient diagnosed with
32 intractable epilepsy.

33 2. A neurologist, including any authorized agent
34 thereof, shall not be subject to prosecution for the
35 unlawful recommendation, possession, or administration
36 of marijuana under the laws of this state for
37 activities arising directly out of or directly related
38 to the recommendation or use of cannabidiol in the
39 treatment of a patient diagnosed with intractable
40 epilepsy.

41 3. *a.* In a prosecution for the unlawful possession
42 of marijuana under the laws of this state, including
43 but not limited to chapters 124 and 453B, it is an
44 affirmative and complete defense to the prosecution
45 that the patient has been diagnosed with intractable
46 epilepsy, used or possessed cannabidiol pursuant to a
47 recommendation by a neurologist as authorized under
48 this chapter, and, for a patient eighteen years of
49 age or older, is in possession of a valid cannabidiol
50 registration card.

1 *b.* In a prosecution for the unlawful possession
2 of marijuana under the laws of this state, including
3 but not limited to chapters 124 and 453B, it is an
4 affirmative and complete defense to the prosecution
5 that the person possessed cannabidiol because the
6 person is a primary caregiver of a patient who has
7 been diagnosed with intractable epilepsy and is in
8 possession of a valid cannabidiol registration card,
9 and where the primary caregiver's possession of the
10 cannabidiol is on behalf of the patient and for the
11 patient's use only as authorized under this chapter.

12 *c.* (1) The defenses afforded a patient under
13 paragraph "a" apply to a patient only if the quantity
14 of cannabidiol oil possessed by the patient does not
15 exceed thirty-two ounces.

16 (2) The defenses afforded a primary caregiver
17 under paragraph "b" apply to a primary caregiver only
18 if the quantity of cannabidiol oil possessed by the
19 primary caregiver does not exceed thirty-two ounces per
20 patient.

21 *d.* If a patient or primary caregiver is charged
22 with the commission of a crime and is not in possession
23 of the person's cannabidiol registration card, any
24 charge or charges filed against the person shall be
25 dismissed by the court if the person produces to the
26 court at the person's trial a cannabidiol registration
27 card issued to that person and valid at the time the
28 person was charged.

29 4. An agency of this state or a political
30 subdivision thereof, including any law enforcement
31 agency, shall not remove or initiate proceedings
32 to remove a patient under the age of eighteen from
33 the home of a parent based solely upon the parent's
34 or patient's possession or use of cannabidiol as
35 authorized under this chapter.

36 Sec. ____ . **NEW SECTION. 124D.7 Penalties.**

37 A person who knowingly or intentionally possesses or
38 uses cannabidiol in violation of the requirements of
39 this chapter is subject to the penalties provided under
40 chapters 124 and 453B.

41 Sec. ____ . **NEW SECTION. 124D.8 Repeal.**

42 This chapter is repealed July 1, 2017.

43 Sec. ____ . **REPORT.** The university of Iowa Carver
44 college of medicine and college of pharmacy shall, on
45 or before July 1 of each year, beginning July 1, 2015,
46 submit a report detailing the scientific literature,
47 studies, and clinical trials regarding the use of
48 cannabidiol on patients diagnosed with intractable
49 epilepsy to the department of public health and the
50 general assembly.

1 Sec. ____ . EFFECTIVE UPON ENACTMENT. The provision
2 of this division of this Act enacting section 124D.5,
3 subsection 2, being deemed of immediate importance,
4 takes effect upon enactment.>
5 2. By renumbering as necessary.

KRESSIG of Black Hawk